



**SUBMITTED ELECTRONICALLY**  
**Via FOIA Online**

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460  
(202) 566-1667

June 1, 2020

Re: Freedom of Information Act Request

Dear National Freedom of Information Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and applicable Environmental Protection Agency (“EPA” or “the Agency”) regulations, 40 C.F.R. §§ 2.100–2.406, Environmental Defense Fund (“EDF”) respectfully requests copies of certain EPA records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act (FOIA). Specifically, EDF requests copies of records generated, received or transmitted beginning on April 30, 2017 up through and including the date that you conduct your search for records. EDF requests all correspondence<sup>1</sup> between any EPA personnel in the Office of Chemical Safety and Pollution Prevention, the Office of the Administrator, or the Office of General Counsel and any External Party that addresses the topics described below related to EPA’s proposed rule or supplemental proposed rule regarding significant new uses of long-chain perfluoroalkyl carboxylate (LCPFAC) and perfluoroalkyl sulfonate (PFAS) chemical substances (other than correspondence that has been placed in the public docket for the rulemaking, Docket ID: EPA-HQ-OPPT-2013-0225). For the purposes of this request, “External Party” includes any person or entity who is not (1) an employee of a federal executive agency or (2) a contractor to a federal executive agency contracted for work on this subject matter in the timeframe specified above. This request includes correspondence where an External Party is the sender or appears anywhere among the recipients, including as a “cc” or “bcc” recipient. EDF requests all

---

<sup>1</sup> In accordance with 5 U.S.C. § 552(f)(2) (describing “record[s]”), EDF intends for “correspondence” to be broadly construed, and to include, without limitation, electronic and hardcopy communications, emails, text messages, voice mails, faxes, records of phone calls, records of meetings, meeting invitations, calendars, written notes, and correspondence transmitted through any electronic platform. This request expressly includes any attachments to responsive correspondence. This request encompasses correspondence that is or was on any computer, phone, smartphone, tablet, email account, cloud, server, or other communication system or device, either personal or business, that is or was owned or operated by any EPA personnel.

correspondence between any EPA personnel and any External Party regarding the following topics:

- The manner in which articles containing LCPFAC or PFAS chemical substances are to be dealt with in the rulemaking, including before or after the change in approach that occurred between the proposal published in the Federal Register on January 21, 2015 (80 FR 2885) and the supplemental proposal published in the Federal Register on March 3, 2020 (85 FR 12479).
- Section 5(a)(5) of the Toxic Substances Control Act.
- The applicability, or limitations to the applicability, of the article exemption at 40 CFR § 721.19(f) to importers of articles containing LCPFAC or PFAS chemical substances, including but not limited to articles where the substances are present as part of a surface coating.
- The potential for exposure to LCPFAC or PFAS chemical substances from articles containing the substances in ways other than as part of a surface coating.
- The concept of a “safe harbor” for companies that are or may commence importing articles containing LCPFAC or PFAS chemical substances after the date of proposal of the significant new use rule in 2015 for which importers could demonstrate their import was ongoing prior to the effective date of a final rule.
- The concept of a *de minimis* threshold for determining “reasonable potential for exposure” and if so, how that *de minimis* threshold could be established.

In any response to this request, please indicate the date the search was conducted. We request that the date of the search be as close as possible to the date of EPA’s final response to this FOIA request.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

#### *Request for Fee Waiver*

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of issues of considerable public interest: the nomination and appointment of individuals to EPA with numerous conflicts of interest.<sup>2</sup> See 15 U.S.C. § 2605(b)(4). More

---

<sup>2</sup> See, e.g., Ken Silverstein, *Government Watchdog Fears EPA's New Climate Scientists Are Not Vetted And Have Conflicts of Interest*, FORBES (Jul. 17, 2019), <https://www.forbes.com/sites/kensilverstein/2019/07/17/government-watchdog-fears-epas-new-climate->

specifically, the public has shown great interest in understanding how EPA officials have complied with ethics requirements and what outside interests might be influencing EPA's decision-making on important policy matters.<sup>3</sup> Especially in regards to EPA's implementation of the recently amended Toxic Substances Control Act, the public has been greatly concerned with the officials who have been nominated and appointed to implement the law and protect human health and the environment against dangerous chemicals.<sup>4</sup>

EDF is well-positioned to disseminate the records to the public, as we engage in extensive, daily efforts to inform the public about matters involving environmental policy through press releases, action alerts, reports, analyses, blogs, and other public outreach materials.<sup>5</sup> EDF has also published a number of blogs detailing potential conflicts of interests at EPA, including blogs that relied on materials released through FOIA.<sup>6</sup> Moreover, in addition to its own capacity to convey information to the public, EDF shares important data with journalists to help enhance public

---

[scientists-are-not-vetted-and-have-conflicts-of-interest/#582565e82eb5](#); Maxine Joselow, *Air chief worried about conflicts of interest — emails*, E&E NEWS (Feb. 12, 2019), <https://www.eenews.net/stories/1060120341>; Hiroko Tabuchi & Tryggvi Adalbjornsson, *From Dow's 'Dioxin Lawyer' to Trump's Choice to Run Superfund*, NY TIMES (Jul. 28, 2018), <https://www.nytimes.com/2018/07/28/climate/dow-epa-superfund.html>; Eric Lipton, *Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots*, NY TIMES (Oct. 21, 2017), <https://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html>; Michael Dourson's Work for Chemical Industry Sponsors, NY TIMES (Oct. 16, 2017), <https://www.nytimes.com/interactive/2017/10/16/science/document-Michael-Dourson-Research-Papers-on-Chemicals.html>; Sheila Kaplan & Eric Lipton, *Chemical Industry Ally Faces Critics in Bid for Top E.P.A. Post*, NY Times (Sept. 19, 2017), <https://www.nytimes.com/2017/09/19/science/epa-chemical-industry-dourson.html>.

<sup>3</sup> See, e.g., FOIA Request, Nancy Beck (Feb. 12, 2018), <https://www.citizensforethics.org/foia/foia-request-environmental-protection-agency-nancy-beck/>.

<sup>4</sup> See, e.g., Eric Lipton, *Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots*, NY TIMES (Oct. 21, 2017), <https://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html>; Michael Dourson's Work for Chemical Industry Sponsors, NY TIMES (Oct. 16, 2017), <https://www.nytimes.com/interactive/2017/10/16/science/document-Michael-Dourson-Research-Papers-on-Chemicals.html>; Sheila Kaplan & Eric Lipton, *Chemical Industry Ally Faces Critics in Bid for Top E.P.A. Post*, NY Times (Sept. 19, 2017), <https://www.nytimes.com/2017/09/19/science/epa-chemical-industry-dourson.html>.

<sup>5</sup> See, e.g., Richard Denison, *Trump EPA caves again to industry demands on new chemicals, and workers pay the price*, EDF Health Blog (Aug. 8, 2019), <http://blogs.edf.org/health/2019/08/08/trump-epa-caves-again-to-industry-demands-on-new-chemicals-and-workers-pay-the-price/>; Sam Lovell, *New Report: Toxic Consequences – Trump's Attacks on Chemical Safety Put Our Health at Risk* (June 17, 2019), <http://blogs.edf.org/health/2019/06/17/new-report-toxic-consequences-trumps-attacks-on-chemical-safety-put-our-health-at-risk/>.

<sup>6</sup> See, e.g., Richard Denison, *Dourson emails show he was paid by and worked closely with ACC when providing states "advice" on chemicals made by ACC members*, EDF BLOG (Dec. 21, 2017), <http://blogs.edf.org/health/2017/12/21/dourson-emails-show-he-was-paid-by-and-worked-closely-with-acc-when-providing-states-advice-on-chemicals-made-by-acc-members/>.



knowledge.<sup>7</sup> We fully intend to disseminate newsworthy information received in response to this request. In particular, the documents requested would shed light on how EPA addresses conflicts of interest in its chemical program. The release of these documents would also significantly enhance the public's understanding of how outside interests are influencing EPA's decisions under the Toxic Substances Control Act.

Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

### Conclusion

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. **Please provide records on a rolling basis;** EPA's search for, or deliberations concerning, certain records should not delay the production of others that EPA has already retrieved and elected to produce. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at 202-572-3245 or by email at [lmccormick@edf.org](mailto:lmccormick@edf.org).

Respectfully submitted,

Lindsay McCormick  
Program Manager, Chemicals and Health  
Environmental Defense Fund  
1875 Connecticut Ave. NW, Suite 600  
Washington, D.C. 20009  
T: 202-572-3245  
[lmccormick@edf.org](mailto:lmccormick@edf.org)

---

<sup>7</sup> Ellen Knickmeyer & Seth Borenstein, *A Trump Official Consulted With Climate-Change Deniers, Emails Show*, TIME (June 14, 2019), <https://time.com/5607109/william-happer-trump-official-emails-climate-change-rejecters/>; Nicole Goodkind, *Trump Administration Official Repeatedly Consulted With Climate Change Deniers On Climate Policy*, NEWSWEEK (June 14, 2019), <https://www.newsweek.com/donald-trump-climate-change-nasa-1444145>.